



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

MAILED

MAY 14 2009

OFFICE OF PETITIONS

In re Application of :
Kubota et al. :
Application No.: 10/615289 : DECISION ON
Filing or 371(c) Date: 07/09/2003 : PETITION
Attorney Docket Number: 03500.017379 :

This is a decision in response to the correspondence filed November 7, 2008. The correspondence is properly treated as a Renewed Petition Under 37 C.F.R. 1.137(b).

This Petition is granted.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Noncompliant Amendment ("Notice"), mailed August 29, 2007. The Notice set a one (1) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). Applicant filed a reply to the Notice on October 25, 2007; however, the reply was not a complete and proper reply. No complete and proper reply having been received, the application became abandoned on September 30, 2007. A Notice of Abandonment was mailed April 8, 2008.

Applicant filed a petition to revive the application under 37 CFR 1.137(b) on September 8, 2008, which was dismissed in a Decision mailed October 27, 2008, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

Applicant files the present renewed petition and Amendment in response to the Notice. The Examiner has approved the Amendment. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay¹. Accordingly, the reply is accepted as having been unintentionally delayed.

The petition fee has been charged to Petitioner's deposit account as authorized in the petition filed September 8, 2008.

¹ 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the original petition filed September 8, 2008, varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

This application is being referred to Technology Center Art Unit 1795 for processing of the reply to the Notice filed with the petition on November 7, 2008, in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions